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Harmeet K. Dhillon

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

HARMEET K. DHILLON,

Plaintiff,

v.

DOE 1, et al.,

Defendants.

Case No. 13-CV-01465 SI

**DECLARATION OF KRISTA L.
SHOQUIST IN SUPPORT OF
OPPOSITION TO DEFENDANT DOE
1's MOTION FOR JUDGMENT ON
THE PLEADINGS PURSUANT TO
FRCP 12(c) OR FOR SUMMARY
JUDGMENT**

Hearing Date: February 28, 2014

Hearing Time: 9:00 a.m.

Courtroom 10, 19th Floor

Hon. Susan Illston

I, Krista L. Shoquist, declare:

1. I am an attorney of record for the Plaintiff in the above-captioned action, pending in the Northern District of California. I am an attorney duly admitted to practice before the Courts of the State of California. I have personal knowledge of the matters set forth herein and if called as a witness could and would competently testify thereto. As to those matter stated on information and belief, I believe them to be true.

Declaration of Krista L. Shoquist

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1 2. On April 2, 2013, I filed on behalf of Plaintiff a complaint for statutory copyright
2 infringement against anonymous Doe defendants in the United States District Court, Northern
3 District of California. The same day, I filed an Ex Parte Application for Leave to Take Limited
4 Discovery Prior to a Rule 26(f) Conference (the “Ex Parte Application”), on the grounds that the
5 Defendants’ identities could not be ascertained without resort to third party sources of
6 information, including New Dream Network, LLC (“NDN”), which I am informed and believe is
7 the web hosting provider that hosts the Munger Games website. This Court granted the Ex Parte
8 Application, and I subsequently arranged for service on NDN of a subpoena that issued out of
9 the Central District of California, where NDN is located.

10 3. In September 2013, Defendant Doe 1 opened an action in the Central District of
11 California for the purpose of moving to quash the subpoena to NDN. Prior to filing the motion to
12 quash, counsel for Doe 1 made no attempt to meet and confer with counsel for Ms. Dhillon
13 concerning the substance of the motion to quash, as required by the Local Rules of the Central
14 District, Rules 7-3, 37-1, 37-2 and 37-4. For this reason, and as explained in an opposition to the
15 motion to quash filed by Ms. Dhillon, the motion to quash was procedurally barred, as a
16 threshold matter. The motion to quash was fully briefed by the parties and was set for hearing on
17 November 26, 2013.

18 4. On November 4, 2014, this Court issued an Order requiring counsel for Doe 1 to
19 accept service of process on Doe 1’s behalf and to promptly file a motion to dismiss and/or
20 motion for summary judgment on Ms. Dhillon’s copyright infringement claim. I spoke to Rick
21 Cigel, counsel for Doe 1, about this Order and we agreed that it indicated this Court’s intent to
22 rule upon all issues between the Parties. Accordingly, Mr. Cigel and I agreed to file, and did file,
23 a stipulation in the Central District court stating that Ms. Dhillon would withdraw her pending
24 Central District-issued subpoena without prejudice, and that Doe 1 would withdraw and dismiss
25 his motion to quash that subpoena without prejudice. The Central District court subsequently
26 closed the case.

Declaration of Krista L. Shoquist

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1 5. Attached as Exhibit A is a true and correct copy of a record that I accessed online
2 through the United States Copyright Office, concerning Ms. Dhillon's copyright in the
3 photograph that is at issue in this lawsuit.

4 6. Attached as Exhibit B is a true and correct copy of the "Meet Harmeet" article
5 that was posted on the website www.mungergames.net in February, 2013.

6 7. Attached as Exhibit C is a true and correct copy of an article posted online by the
7 Sacramento Bee (sacbee.com), dated September 19, 2013, and entitled "FPPC approves new
8 rules for political bloggers."

9 8. In total, Doe 1 has had three separate opportunities, in two different district
10 courts, to establish his affirmative defense of fair use. The first opportunity was in connection
11 with Doe 1 and Michael J. Schroeder's Opposition to Plaintiff's Administrative Motions for
12 Leave to Take Limited Discovery Prior to a Rule 26(f) Conference, which was filed on October
13 1, 2013, in this Court. Dkt. 30. The second opportunity was in connection with Doe 1's Motion
14 to Quash Subpoena Issued in Central District of California to New Dream Network, LLC
15 ("Motion to Quash"), filed on September 24, 2013, in the Central District of California. Attached
16 as Exhibit D is a true and correct copy of the Motion to Quash. The third opportunity is in
17 connection with the pending Motion for judgment on the pleadings and/or summary judgment.

18 9. Attached as Exhibit E is a true and correct copy of an article posted on
19 mungergames.net on October 3, 2013, which includes two separate hyperlinks linking to an
20 article dated September 29, 2013, posted by Jon Fleischman on Flashreport.org. Attached as
21 Exhibit F is a true and correct copy of the September 29, 2013 Flashreport.org article. The
22 Flashreport.org is surrounded by advertisements, including ads stating "Your Ad Could Be
23 Here."

24 10. Attached as Exhibit G is a true and correct copy of an article posted on
25 Flashreport.org, dated February 12, 2013, which includes a hyperlink to the mungergames.net
26 website.

Declaration of Krista L. Shoquist

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1 11. Attached as Exhibit H is a true and correct copy of an article posted on
2 mungergames.net, dated January 10, 2014. Attached as Exhibit I is a true and correct copy of an
3 article posted on mungergames.net, dated May 31, 2013.

4 I declare under penalty of perjury under the laws of the State of California that the
5 foregoing is true and correct and that this declaration was executed at the date set forth below in
6 San Francisco, California.

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8 Date: January 28, 2014

/s/ Krista L. Shoquist
Krista L. Shoquist

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Declaration of Krista L. Shoquist

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